

TREATY ON INTERNATIONAL COOPERATION IN THE AREA OF PATENTS

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT ON PATENTABILITY

(Chapter II of the Treaty on International Cooperation in the Area of Patents)

Applicant's or Agent's File Ref. 42 274.nb	FOR FURTHER ACTION	See Form PCT/IPEA/416
International Application No. PCT/EP2004/011815	International Filing Date (<i>Month/Day/Year</i>) October 19, 2004	Priority Date (<i>Month/Day/Year</i>) November 19, 2003
International Patent Classification (IPC) or National Classification and IPC B21B31/32		
Applicant SMS DEMAG AG et al.		

<p>1. This international preliminary examination report has been prepared by the duly commissioned International Preliminary Examining Authority according to Article 35 and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 pages, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES; these comprise</p> <p style="margin-left: 20px;">a. <input checked="" type="checkbox"/> (<i>sent to the applicant and the International Office</i>) a total of 4 pages; these are</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> pages of the description, claims, and/or drawings which have been amended and are the basis for this report and/or pages containing rectifications that have been approved by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> pages that replace earlier pages but which, for the reasons given in field No. 1, item 4, and in the supplementary field, in the opinion of this Authority, contain a change that goes beyond the disclosed contents of the international application in the version originally submitted.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (<i>sent only to the International Office</i>): (please specify the type and number of the electronic data carrier(s)), which contain a sequence listing and/or the tables that belong to it, only in computer-readable form, as specified in the supplementary field regarding the sequence listing (see Section 802 of the Administrative Instructions)</p> <p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%;"><input checked="" type="checkbox"/> Field No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/> Field No. II</td> <td>Priority</td> </tr> <tr> <td><input checked="" type="checkbox"/> Field No. III</td> <td>Nonestablishment of opinion with respect to novelty, inventive activity, and commercial viability.</td> </tr> <tr> <td><input type="checkbox"/> Field No. IV</td> <td>Lack of unity of the invention.</td> </tr> <tr> <td><input checked="" type="checkbox"/> Field No. V</td> <td>Substantiated determination under Article 35(2) with respect to novelty, inventive activity, and commercial viability; documents and declarations in support of this determination.</td> </tr> <tr> <td><input type="checkbox"/> Field No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Field No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Field No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/> Field No. I	Basis of the report	<input type="checkbox"/> Field No. II	Priority	<input checked="" type="checkbox"/> Field No. III	Nonestablishment of opinion with respect to novelty, inventive activity, and commercial viability.	<input type="checkbox"/> Field No. IV	Lack of unity of the invention.	<input checked="" type="checkbox"/> Field No. V	Substantiated determination under Article 35(2) with respect to novelty, inventive activity, and commercial viability; documents and declarations in support of this determination.	<input type="checkbox"/> Field No. VI	Certain documents cited	<input type="checkbox"/> Field No. VII	Certain defects in the international application	<input type="checkbox"/> Field No. VIII	Certain observations on the international application
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<input type="checkbox"/> Field No. VIII	Certain observations on the international application															

Date of submission of the petition: February 24, 2005	Date of completion of this report: October 25, 2005
Name and mailing address of the office assigned to perform the preliminary examination: European Patent Office D-80298 Munich Tel: +49 89 2399-0 Tx: 523656 epmu d Fax: +49 89 2399-4465	Authorized Officer: Forciniti, M. Tel: +49 89 2399-7903

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**INTERNATIONAL PRELIMINARY
 EXAMINATION REPORT ON
 PATENTABILITY**

International File No.: **PCT/EP2004/011815**

Field No. I Basis of the Report

1. With respect to the **language**, the report is based on the international application in the language in which it was submitted unless otherwise indicated under this item.
- ☐ The report is based on a translation from the original language into the following language, which is the language of the translation, which was submitted for the following purpose:
 - ☐ international search (under Rules 12.3 and 23.1 b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rule 55.2 and/or Rule 55.3)
2. With regard to the **constituent parts*** of the international application, the report is based on *(replacement pages which were submitted to the application office in compliance with a request according to Article 14 are considered "originally filed" in the context of this report and are not attached to the report)*:

Specification, pages:

1-10 as originally filed

Claims, Nos.:

1-14 received on June 15, 2005 with letter dated June 13, 2005

Drawings, Pages:

1/7-7/7 as originally filed

- ☐ a sequence listing and/or any accompanying tables – see supplementary field regarding the sequence listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description: pages
 - ☐ the claims: Nos.
 - ☐ the drawings: sheets/figures:
 - ☐ the sequence listing *(exact details)*:
 - ☐ any tables belonging to the sequence listing *(exact details)*:

4. ☐ This report has been prepared as if (some of) the amendments attached to this report and listed below had not been made, since for the reasons specified in the supplementary field they are considered by this Authority to go beyond the disclosure as originally filed (Rule 70.2 c)).

☐ the description: pages

☐ the claims: Nos.

☐ the drawings: sheets/figures:

☐ the sequence listing (*exact details*):

☐ any tables belonging to the sequence listing (*exact details*):

* If Item 4 applies, some or all of these pages can be furnished with the comment "replaced".

Field No. III Nonestablishment of opinion with respect to novelty, inventive activity, and commercial viability

1. The following parts of the application were not examined to determine whether the claimed invention is to be regarded as novel, based (not obviously) on inventive activity, and commercially viable:

☐ the entire international application,

☒ Claims 12-14

Reasons:

☐ The entire international application or the claim numbers cited above refer to the object below, for which no international preliminary examination needs to be performed (*exact details*):

☒ The specification, the claims or the drawings (*please provide exact details below*) or Claims 12-14 cited above are so unclear that no meaningful opinion could be established (*exact details*):

See attached page

☐ The claims or the claim numbers cited above are so inadequately supported by the specification that no meaningful opinion could be established.

☐ No international search report was prepared for the claim numbers cited above.

☐ The nucleotide and/or amino acid sequence listing does not conform to the standard prescribed in Annex C of the Administrative Instructions, because

the written form

☐ was not submitted

☐ does not conform to the standard

the computer-readable form

☐ was not submitted

☐ does not conform to the standard

- ☐ The tables on the nucleotide and/or amino acid sequence listing, if they exist only in computer-readable form, do not conform to the technical specifications prescribed in Annex C of the Administrative Instructions.
- ☐ See attached page for further details.

Field No. V Substantiated determination under Article 35(2) with respect to novelty, inventive activity, and commercial viability; documents and declarations in support of this determination

1. Determination

Novelty (N)	Yes: Claims 1-11
	No: Claims
Inventive Activity (AI):	Yes: Claims 1-11
	No: Claims
Commercial Viability (CV):	Yes: Claims 1-11
	No: Claims

2. Documents and Declarations (Rule 70.7):

See attached page.

**INTERNATIONAL PRELIMINARY
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Re Item III

III.1. **Claims 11, 12, and 13** were drawn up as separate, independent claims, but they actually appear to refer to one and the same object, namely, a method for using the adjusting cylinder according to **Claim 1** (see also defects in clarity under item V.4). For this reason, the claims are not expressed precisely and do not satisfy the requirements of Article 6 PCT.

III.2. Therefore, the detailed examination is limited to the **device Claims 1 to 10** and to the first-cited, independent **method Claim 11**.

Re Item V

Substantiated determination under Article 35(2) with respect to novelty, inventive activity, and commercial viability; documents and declarations in support of this determination

V.1. The following document is cited:

D1: US-A-3 566 638 (ROBERT HERBST) March 2, 1971 (1971-03-02)

V.2. The object of **Claim 1** is novel for the following reasons (Article 33(2) PCT):

Document **D1** discloses a device of a general type. The object of **Claim 1** differs from the adjusting cylinder known from **D1** by virtue of the different sizes of the pressure surfaces disclosed in the characterizing clause.

V.3. The object of **Claim 1** is inventive for the following reasons (Article 33(2) PCT):

In a way that is not obvious from reading **D1**, the pressure surfaces of different sizes allow long strokes to be made at high speeds at the same pumping capacity. This allows the use

of purely hydraulic adjustments even in plate-rolling mills (page 1, lines 24-31).

V.4. **Claim 4** is at least partly unclear in accordance with Article 6 PCT. This claim refers to a:

Method for operating the adjusting cylinder

Due to the use of this wording, it must be assumed that “**the adjusting cylinder**” means “**the adjusting cylinder in accordance with Claim 1.**”

V.5. A **method Claim 11** of this type that uses the adjusting cylinder in accordance with **Claim 1** is likewise novel and inventive (Article 33(2)(3) PCT).

V.6. Dependent **Claims 2 to 10** constitute further developments of the object of **Claim 1** and thus also satisfy the conditions of the PCT with respect to novelty and inventive activity (Article 33(2)(3) PCT).

V.7. The object of **Claims 1 to 11** is thus unquestionably commercially viable (Article 33(4) PCT).